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Department of Insurance
State of Idaho

Attorneys for the Department of Insurance

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE
OF THE STATE OF IDAHO**

In the Matter of:

CITY OF NAMPA EMPLOYEE WELFARE
BENEFIT TRUST

Idaho Registration No. 3968

Docket No. 18-3166-16

**ORDER ADOPTING REPORT
OF EXAMINATION AS OF
SEPTEMBER 30, 2014**

The Idaho Department of Insurance (“Department”), having conducted an examination of the books, records, accounts, and affairs of City of Nampa Employee Welfare Benefit Trust (the “Nampa Trust”), pursuant to Idaho Code §§ 41-4013 and 41-219(1), hereby alleges the following facts that constitute a basis for issuance of an order, pursuant to Idaho Code §§ 41-4013(3) and 41-227(5)(a), adopting the Report of Examination of City of Nampa Employee Welfare Benefit Trust as of September 30, 2014 (“Report”), as filed.

FINDINGS OF FACT

1. The Nampa Trust is an Idaho-domiciled self-funded health care plan, which was

duly registered with the Department on June 18, 2009, under Registration No. 3968.

2. The Department completed an examination of the Nampa Trust, pursuant to Idaho Code §§ 41-4013 and 41-219(1), on or about April 6, 2016. The Department's findings are set forth in the Report, which covers the time period from June 18, 2009, through September 30, 2014.

3. Pursuant to Idaho Code § 41-227(4), a copy of the Report, verified under oath by the Department's examiner-in-charge, was submitted to the Director of the Department (Director) on April 6, 2016, and a copy of such verified Report was transmitted to the Nampa Trust on April 7, 2016. A copy of the verified Report is attached hereto as Exhibit A.

4. Pursuant to Idaho Code § 41-227(4), the Nampa Trust had thirty (30) days from April 7, 2016, to make a written submission or rebuttal with respect to any matters contained in the Report. No written submissions or rebuttals were received by the Department from the Nampa Trust.

CONCLUSIONS OF LAW

5. Pursuant to Idaho Code §§ 41-4013(3) and 41-227(5)(a), the Director has authority to make such corrections, changes, or modifications to the Report as the Director deems appropriate. Idaho Code § 41-227(5)(a) provides that "[w]ithin thirty (30) days of the end of the period allowed for the receipt of written submissions or rebuttals, the director shall fully consider and review the report, together with any written submissions or rebuttals and relevant portions of the examiner's work papers" and shall enter an order adopting the report of examination as filed or with modifications or corrections.

6. Having fully considered the Report, the Director concludes that the comments and recommendations contained in the Report are appropriate.

ORDER

NOW, THEREFORE, based on the foregoing, IT IS HEREBY ORDERED, that the Report of Examination of City of Nampa Employee Welfare Benefit Trust as of September 30, 2014, is hereby ADOPTED as filed, pursuant to Idaho Code §§ 41-4013(3) and 41-227(5)(a).

IT IS FURTHER ORDERED, pursuant to Idaho Code §§ 41-4013(3) and 41-227(8), that the adopted Report is a public record and shall not be subject to the exemptions from disclosure provided in title 74, chapter 1, Idaho Code.

IT IS FURTHER ORDERED, pursuant to Idaho Code § 41-227(6)(a), that, within thirty (30) days of the issuance of the adopted Report, the Nampa Trust shall file with the Department's Deputy Chief Examiner affidavits executed by each of its directors stating under oath that they have received a copy of the adopted Report and related orders.

IT IS SO ORDERED.

DATED this 2 day of June, 2016.

STATE OF IDAHO
DEPARTMENT OF INSURANCE



DEAN L. CAMERON
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this _____ day of June, 2016, I caused a true and correct copy of the foregoing ORDER ADOPTING REPORT OF EXAMINATION AS OF SEPTEMBER 30, 2014, to be served upon the following by the designated means:

Vicky Chandler
Finance Director, City of Nampa
Trustee of City of Nampa Employee Welfare Benefit Trust
411 3rd Street S.
Nampa, ID 83651
chandlerv@cityofnampa.us

- ☐ first class mail
- ☒ certified mail
- ☐ hand delivery
- ☒ email

Georgia Siehl, CPA, CFE
Bureau Chief / Chief Examiner
Idaho Department of Insurance
700 W. State Street, 3rd Floor
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_____

DEPARTMENT OF INSURANCE

STATE OF IDAHO



REPORT OF EXAMINATION

Of

CITY OF NAMPA EMPLOYEE WELFARE BENEFIT TRUST
(Self-Funded Health Care Plan)

As of September 30, 2014



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Boise, Idaho
April 6, 2016

The Honorable Dean L. Cameron
Director, Department of Insurance
State of Idaho
700 West State Street
Boise, Idaho 83720-0043

Dear Director:

Pursuant to your instructions, in compliance with Idaho Code §§ 41-219(1) and 4013(1), we have conducted an examination as of September 30, 2014, of the financial condition and corporate affairs of:

City of Nampa Employee Welfare Benefit Trust
411 3rd Street, S
Nampa, Idaho 83651

hereinafter referred to as "the Plan" at its office in Nampa, Idaho. The following Report of Examination is respectfully submitted.

SCOPE OF EXAMINATION

This examination covered the period from June 18, 2009, the date that the Certificate of Registration was issued, through September 30, 2014, and included such prior transactions and any material transactions and/or events occurring subsequent to the examination date and noted during the course of this examination. The examination was conducted in accordance with Idaho Code §§ 41-219(1) and 4013(1). Verification and valuation of assets, liabilities, and net assets and an analysis and review of such other accounts and records as appropriate to the examination were also performed. There was some reliance upon the independent auditor's and the consulting actuary's work in this examination.

A letter of representation attesting to the Plan's ownership of all assets and to the nonexistence of unrecorded liabilities or contingent liabilities was signed by and received from the trustee of the Plan.

SUBSEQUENT EVENTS

Employees that are members of the police association and fire union left the Plan effective January 1, 2015. That resulted in reducing the number of beneficiaries covered by the Plan from approximately 1,500, as of the examination date, to approximately 750 in 2015.

HISTORY AND DESCRIPTION

The City of Nampa Employee Welfare Benefit Trust (the Plan) was registered as a self-funded health care plan in Idaho effective June 18, 2009. On that date, the Idaho Department of Insurance issued a certification of registration (No. 3968) to the Plan under Title 41, Chapter 40 of the Idaho Code. The Plan provides health care benefits to all full-time employees of the City of Nampa who regularly work 30 hours or more per week and are paid on a regular, periodic basis through City payroll, and their dependents. Coverage begins on the first day of the following month after hire date.

CORPORATE RECORDS

Minutes of Meetings

The Plan did not keep Board of Trustees meeting minutes until December 9, 2011. Minutes from December 2, 2011 through July 24, 2014 were reviewed. There was no record in the minutes that investments were approved by the Trustees. Pursuant to Idaho Code § 41-4009(4), no investment shall be made by or on behalf of the trust fund unless authorized in writing by the trustee and included in the records of the trust fund. It was also noted that important information/transactions such as approval of agreements, review of financial statements, review of actuarial reports, approval of major expenses, appointing an independent auditor and actuary and approval of major changes were not recorded in the minutes. It is recommended that the Trustees approve and record the aforementioned items in the minutes. (*See Comments and Recommendations Item A*)

MANAGEMENT AND CONTROL

Effective April 20, 2009, the City of Nampa (Employer) entered into a trust agreement with the Plan. The purposes of the Plan, as stated in the agreement includes: (1) to receive all contributions to the Plan; (2) to hold, manage, invest and reinvest the Plan's property and all income from the property and; (3) to make distributions from the Trust Fund in such amounts and to such person or persons as the Administrator shall direct to provide for medical, dental, pharmacy and vision expenses incurred by Participants. The Board of Trustees of the Plan was composed of two persons, the finance director and the human resource director of the City of Nampa. The Trustees shall serve without compensation. Any action taken by the Trustees shall be taken by a majority vote of the Trustees.

Trustees

The following persons were members of the Board of Trustees as of September 30, 2014:

<u>Name and Business Address</u>	<u>Principal Occupation</u>
Vikki Chandler Nampa, Idaho	Finance Director City of Nampa
Ed Simmerman* Nampa, Idaho	Director of Human Resource City of Nampa

*Tina Combs replaced Ed Simmerman effective September 7, 2014; she is also the Director of Human Resource for the City of Nampa.

Conflict of Interest

Idaho Code §41-4015 provides for prohibited pecuniary interests in plan management. The Plan does not have a process in place to ensure compliance with Idaho Code § 41-4015, or any other conflicts of interest that might be in existence. It is recommended that Trustees implement a procedure which requires each individual having responsibility for the management of the Plan, including the Trustees, to fill out a conflict of interest statement annually to verify compliance with § 41-4015 Idaho Code and identify conflicts of interest and outside fiduciary duties of a trustee. These statements should be reviewed by the Board of Trustee annually to ensure that any type of conflict is disclosed and that prohibited pecuniary interests are addressed and resolved. *(See Comments and Recommendations Item B)*

Contracts and Agreements

The Plan had the following agreement in effect as of September 30, 2014:

Trust Agreement

For a discussion of the trust agreement details, please go to the heading titled “Management and Control.”

Administrative Services Agreement

The service agreement with Blue Cross of Idaho (BCI) has been in effect since Plan inception and is automatically renewed for successive 12 month period until cancelled by either party. It was noted that this agreement was entered into by the City of Nampa and not under the Plan's name. Idaho Code Section 41-4007(3) states that the Plan contract in its own name. It is recommended that the Plan revise these agreement by changing the name from the City of Nampa to the Plan's name. In this agreement, BCI agrees to provide general administrative services, benefit payment services, and excess of loss coverage to the Plan. Below is a brief description of the services provided:

General Administrative Services

- Furnish summary description of health benefits to employees
- Furnish application forms to the Plan
- Maintain enrollment eligibility files
- Provide ID cards to covered employees
- Provide a weekly summary of paid claims
- If requested, provide an annual account of the claims, administrative fees and excess of premium paid
- Information necessary for preparation of annual reports in accordance with ERISA
- If requested and appropriate, large claimant reports
- Prepare and deliver an IBNR estimate

- Assist in the establishment of a funding program
- Timely prepare summaries of benefits and coverages for the Plan

Benefits Payment Services

- Process and pay benefit claims for the Plan
- Provide written notice to members of the initial denial of a claim
- Receive and review request for reconsideration of a denied claim

Excess of Loss Coverage:

Specific Excess of Loss Coverage-The Plan has financial responsibility to pay for benefits received by a participant until such payment reaches \$125,000. Thereafter, BCI's responsibility under the stop loss coverage is effective and will pay for benefit claims for that participant only if such benefit claims are paid by BCI during the then current agreement period.

Aggregate Excess of Loss Coverage-BCI agrees to reimburse the Plan if the Plan paid claims during an agreement period exceeds the aggregate excess of loss attachment point. The aggregate excess of loss amount is based on a set factor multiplied by the number of enrollees over twelve months.

Consulting Services Agreement

This agreement between the City of Nampa and Gallagher Benefit Services became effective on April 1, 2013. In this agreement, Gallagher Benefit Services, Inc. agrees to provide consulting services with respect to certain employee benefits sponsored by the Plan.

It was noted that the above agreement was entered into by the City of Nampa and not the Trustees under the Plan's name. Pursuant to Idaho Code § 41-4007(3), the Plan has the power to contract in its own name. It is recommended that the Plan revise this agreement so that it is between the Plan itself and the consultant. *(See Comments and Recommendations Item C)*

Edward Jones Account Agreement

Effective March 9, 2009, the Trust entered into an account agreement with Edward D. Jones & Co. L. P. (Edward Jones). This agreement specifies the services provided by Edward Jones such as information from investment research, investment education, financial tools and other investment products and services.

Plan Services Agreement

The City of Nampa (Employer) entered into a Plan Services Agreement with Edward Jones for the purpose of assisting the Employer in providing benefits or defraying reasonable expenses of administering the Plan that it is currently sponsoring on behalf of its employees and their beneficiaries. The services include providing the Employer:

- Information to assist in selecting suitable investment product to hold investment of the Plan
- Assistance in transferring assets from another financial institution to Edward Jones or the issuer of a product/security
- Assessment tools to enable Employer and other plan fiduciaries to determine the Plan's investment objectives
- Sample investment policies and information about how to diversify Plan investments and evaluate asset allocation models
- Educational services to Plan participants and their beneficiaries that include Plan information, general financial and investment information and financial models.

The Trustee may invest Trust funds available for that purpose only in investments specified in Idaho Code § 41-4009(1). A list of prohibited investments are provided for in Idaho Code § 41-4009(2). Pursuant to Idaho Code § 41-4009(4)...No investment shall be made by or on behalf of the trust fund unless authorized in writing by the Trustee and included in the records of the trust fund. As of the examination period, the Employer does not have authorization to avail itself of the services provided by Edward Jones within the plan services agreement pertaining to investment of Trust funds.

Pursuant to Idaho Code § 41-4014(2) ...An employer participant of the plan shall be neither a trustee nor the administrator... The Employer's Plan Services Agreement with Edward Jones implies administrative responsibilities. *(See Comments and Recommendations Item D)*

FIDELITY BONDS AND OTHER INSURANCE

A fidelity bond policy for the protection of the Plan was maintained through the period under examination. The coverage provided on this policy met the requirements specified in Idaho Code § 41-4014(3).

The insurance company providing coverage to the Plan was licensed or otherwise authorized in the State of Idaho.

TERRITORY AND PLAN OF OPERATION

As previously reported, the Plan was registered with the Idaho Department of Insurance as a self-funded health care plan on June 18, 2009, under Title 41, Chapter 40, Idaho Code. In this connection, Certificate of Registration Number 3968 was granted to the Plan to operate in the State of Idaho.

Our examination noted that the Plan does not have separate employees. All service, ministerial duties and responsibilities incidental to Plan operations are conducted by the City of Nampa employees. There is no written agreement in place that defines the nature and scope of work, or that describes the duties, responsibilities and compensation, if any, with the City of Nampa for handling such ministerial functions for the Plan.

Pursuant to Idaho Code §41-4005(2)(g), the Department requires a copy of every contract between the Plan and any administrator, trustee, or service company to be submitted to the Department. Any amendments or changes made to administrative, service, or management agreements shall also be filed with the Department for review and approval not less than thirty (30) days before the effective date as required by Idaho Code §41-4004(2)(c). *(See Comments and Recommendations Item E)*

Operations relating to claims are administered by Blue Cross of Idaho Health Services, Inc.

The Plan currently provides medical, dental, and pharmacy benefits to approximately 750 individuals of the City of Nampa. These individuals include employees, COBRA members and their dependents. Members of the Fire Union and Police Association dropped out of the Plan effective January 1, 2015. Prior to that day, the Plan provided benefits to approximately 1,500 individuals.

GROWTH OF THE PLAN

The Plan's growth for the years indicated, as taken from the audited financial statements for the fiscal years 2009 and 2014 (September 30), is shown in the following schedule:

<u>Year</u>	<u>Assets</u>	<u>Liabilities</u>	<u>Net Assets/Surplus</u>	<u>Change in Net Asset/Surplus (deficit)</u>
2009	\$ 1,753,919	432,999	1,320,920	N/A
2010	\$ 2,052,458	396,772	1,655,686	334,766
2011	\$ 2,889,526	458,783	2,430,743	775,057
2012	\$ 2,937,931	536,891	2,401,040	-29,703
2013	\$ 2,580,288	505,912	2,074,376	-326,664
2014*	\$ 2,864,852	487,412	2,377,440	303,064

*As determined by Examination

BENEFIT PLANS AND RELATED PRACTICES

Benefit Plans

As previously mentioned, the Plan currently provides medical, dental and pharmacy health care benefits to approximately 750 individuals of the City of Nampa. These individuals include employees, COBRA members, and dependents. The Plan's benefit period is January 1st through December 31st.

In 2014, the Plan provided two benefit plans to employees, a select and a basic plan. The select plan carried an \$800 per person deductible and an out of pocket limit of \$3,300 per person. The basic plan carried a \$1,200 per person deductible and an out of pocket limit of \$6,200 per person. In 2015, the Plan only offers one benefit plan to employees. This plan carried a \$1,200 per person deductible and an out of pocket limit of \$6,200 per person.

Complaints

The Plan does not maintain a complete record of all the complaints which it has received from inception.

Idaho Code §41-4021 requires all self-funded plans regulated under Title 41, Chapter 40 of Idaho Code to comply with other applicable provisions of Title 41, which includes provisions in Chapter 13 of Title 41 Idaho Code. For the purpose of these code sections cited in Idaho Code §41-4021, with respect to self-funded plans, such plans shall be deemed to be "insurers."

Pursuant to Idaho Code §41-1330 ...Every authorized insurer shall maintain a complete record of all the complaints...This record shall indicate ... the total number of complaints...the nature of each complaint, the disposition of these complaints and the time it took to process each complaint. For purposes of this section, "complaint" shall mean any written communication primarily expressing a grievance. It was also noted that the Plan has not established procedures for members to appeal to the Trustees in the event the members are not satisfied with BCI's handling of their claims. *(See Comments and Recommendations Item F)*

Privacy Practices

The Plan has maintained privacy practices set forth under the federal Health Insurance Portability and Accountability Act (HIPAA). HIPPA information is included in the employees' handbook.

Each employee is required to sign a statement to acknowledge his/her understanding of the privacy practices of HIPPA.

ACCOUNTS AND RECORDS

General Accounting

The Plan's business and accounting records were maintained at the office of City of Nampa. Claims data were maintained by its claims service administrator, Blue Cross of Idaho Health Services, Inc.

Independent Auditor

The annual independent audits of the Plan for the fiscal years (September 30) 2009 through 2014 were performed by Eide Bailly LLP, Boise, Idaho. In the auditor's opinion, the financial statements of the Plan present fairly the financial position of the Plan in accordance with accounting principles generally accepted in the United States of America. There was some reliance on the 2014 audit work papers in this examination of the Plan.

Actuarial Opinion

The Plan's utilized the services of the actuary of Blue of Cross of Idaho Health Services, Inc. to project its incurred but not reported reserve; however, no annual actuarial opinion was obtained from the actuary. Pursuant to Idaho Code § 41-4011(3), the Plan's annual statement shall be accompanied by the certified actuarial opinion. It is recommended that the Plan obtain a certified actuarial opinion from its actuary and submit such opinion along with its September 30th financial statements to the Idaho Department of Insurance. *(See Comments and Recommendations Item G)*

FINANCIAL STATEMENTS

The financial section of this report contains the following statements:

Statement of Net Assets as of September 30, 2014

Statement of Income, Expenses, and Changes in Net Assets for the Year Ended September 30, 2014

Reconciliation of Net Assets, September 30, 2009 through September 30, 2014

Statement of Net Assets
As of September 30, 2014

Assets	Per Plan	Examination Adjustments	Per Examination
Cash and cash equivalents	\$ 1,285,620	-	\$ 1,285,620
Investments, at fair values	1,579,232	-	1,579,232
Total Assets	<u>\$ 2,864,852</u>	-	<u>\$ 2,864,852</u>
Liabilities and Net Assets			
Claims payable	\$ 148,706	-	\$ 148,706
Health claims incurred but not reported (Note 1)	338,706	-	338,706
Total Liabilities	<u>\$ 487,412</u>	-	<u>\$ 487,412</u>
Net Assets	<u><u>\$ 2,377,440</u></u>	-	<u><u>\$ 2,377,440</u></u>

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**Statement of Income, Expenses and Changes in Net Assets
For the Year Ended September 30, 2014**

	Per Plan	Examination Adjustments	Per Examination
Contributions:			
Employer contributions	\$ 5,997,637	-	\$ 5,997,637
Plan member contributions	661,997	-	661,997
COBRA contributions	63,703	-	63,703
Total Contributions	<u>\$ 6,723,337</u>	-	<u>\$ 6,723,337</u>
Reimbursements	\$ 52,343	-	\$ 52,343
Interest income	20,437	-	20,437
Unrealized loss on investments	(6,133)	-	(6,133)
Total Income	<u>\$ 6,789,984</u>	-	<u>\$ 6,789,984</u>
Expenses:			
Health claim benefits	\$ 5,581,717	-	\$ 5,581,717
Change in incurred but not reported	(39,535)	-	(\$39,535)
Administrative expenses	944,738	-	\$944,738
Total Expenses	<u>\$ 6,486,920</u>	-	<u>\$ 6,486,920</u>
Increase in Net Assets	<u><u>\$ 303,064</u></u>	-	<u><u>\$ 303,064</u></u>

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Reconciliation of Changes in Net Assets
September 30, 2009 through September 30, 2014

	2010	2011	2012	2013	2014*
Net Assets, End of Previous year	\$1,320,920	\$1,655,686	\$2,430,743	\$2,401,040	\$2,074,376
Change in Net Assets	334,766	775,057	-29,703	-326,664	303,064
Net Assets, End of current Year	\$1,655,686	\$2,430,743	\$2,401,040	\$2,074,376	\$2,377,440

*Per Examination

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NOTES TO FINANCIAL STATEMENTS

Note (1) – Health Claims Incurred But Not Reported

\$338,706

The captioned liability as of September 30, 2014 was examined by Lewis & Ellis, Inc., contract actuary for the Idaho Department of Insurance. The result of its review and analysis indicates that the Plan's IBNR liability as of September 30, 2014 is reasonable.

The results of this examination disclosed that as of September 30, 2014, the Plan had assets of \$2,864,852, liabilities of \$487,412 and net assets of \$2,377,440. It appears that the Plan has complied with the surplus requirement under Idaho Code.

COMMENTS AND RECOMMENDATIONS

The following comments and recommendations were made as a result of the financial examination of the City of Nampa Employee Welfare Benefit Trust:

A. Minutes of Meetings

Our examination included a review of the minutes of meetings of the Board of Trustees in order to gain an understanding of the Plan's management and operations. We noted the following issues during our review:

- There is no record within the years under examination that the investment transactions were approved by the Board of Trustees.

Pursuant to Idaho Code §41-4009 (4) No investment shall be made by or on behalf of the trust fund unless authorized in writing by the trustee and included in the records of the trust fund...

- There is no record within the years under examination that the administrative services agreement with Blue Cross of Idaho and the consulting services agreement with Gallagher Benefit Services, Inc. were approved or authorized by a member of the Board of Trustees.

Pursuant to Idaho Code §41-4007, the Plan has the authority to contract in its own name. All such contracts shall be in writing and shall be signed by the trustee of the fund, and if there is more than one (1) trustee, the contract may be so executed by one (1) trustee if so authorized by all trustees...

- Other material transactions such as review of financial statements, review of actuarial reports, and approval of major expenses, appointing independent auditor and actuary, and

approval of major changes were not recorded in the minutes of meeting of the Board of Trustees.

RECOMMENDATION:

It is recommended that all acts, resolutions, appointments, authorizations to transact, delegation of ministerial duties or all other activities of the Plan shall be authorized only by the Board of Trustees in writing. In addition, it is also recommended that the Plan complete and accurate minutes of the meetings of the Board of Trustees or actions taken outside of a meeting of the Board of Trustees, shall be maintained in the records of the board of Trustees.

We further recommend that authorizations of the Trustees to invest trust funds from the trust account be documented and approved in writing in accordance with Idaho Code §41-4009(4).

B. Conflict of Interest Statement

The Plan did not have procedures in place that required Trustees and other persons having responsibility for management of the plan to disclose prohibited pecuniary interest as enumerated under Idaho Code §§41-4014 and 41-4015 and any other conflicts of interest.

As a reminder, on October 29, 2014, Grant Walden, Contracted Analyst; sent notifications on behalf of the Department to all self-funded trusts registered in Idaho advising them to develop a written conflict of interest statement and have them signed once per year. A sample of a conflict of interest statement was sent along with that notification via email.

RECOMMENDATION:

It is recommended that Trustees implement a procedure which requires each individual having responsibility for the management of the Plan, including the Trustees, to fill out a conflict of interest statement annually to verify compliance with Idaho Code §§41-4014 and 41-4015 and identify conflicts of interest and outside fiduciary duties of a trustee. These statements should be reviewed by the Board of Trustee annually to ensure that any type of conflict is disclosed and that prohibited pecuniary interests are addressed and resolved.

C. Clerical Oversight

The Plan's name submitted to the Department for registration was "City of Nampa Employee Welfare Benefit Trust." An erroneous name was entered and recorded in the following document:

- Auditor's Report: The name was written as "City of Nampa Employee Welfare Benefit Plan Trust"
- Consulting Services contract with Gallagher Benefit Services Inc.: The contract is with "City of Nampa". This contract was executed by the Trustees and the payments are all under the Trust's name.
- Administrative Services Agreement with Blue Cross of Idaho: The contract is

with "City of Nampa." This contract was executed by the Trustees and the payments are all under the Trust's name.

The Trustees admitted during the examination that this was an oversight and should be corrected to reflect the Trust's name as submitted to the Department for registration.

RECOMMENDATION:

It is recommended that the Plan amend the contracts between the city and all service providers including the agreement with external auditors and replace them with contracts between the Plan and the service providers. Additionally, the changes to these contracts will need to be filed with the Department pursuant to Idaho Code § 41-4004(2).

D. Plan Services Agreement

The City of Nampa (Employer) entered into a Plan Services Agreement with Edward Jones for the purpose of assisting the Employer in providing benefits or defraying reasonable expenses of administering the Plan that it is currently sponsoring on behalf of its employees and their beneficiaries. The services include providing the Employer:

- Information to assist in selecting suitable investment product to hold investment of the Plan
- Assistance in transferring assets from another financial institution to Edward Jones or the issuer of a product/security
- Assessment tools to enable Employer and other plan fiduciaries to determine the Plan's investment objectives
- Sample investment policies and information about how to diversify Plan investments and evaluate asset allocation models
- Educational services to Plan participants and their beneficiaries that include Plan information, general financial and investment information and financial models.

The Trust—not the Employer—is the proper party to the Plan Services Agreement with Edward Jones. The Trustee and not the Employer may invest Trust funds available for that purpose only in investments specified in Idaho Code § 41-4009(1). A list of prohibited investments are provided for in Idaho Code § 41-4009(2). Additionally, pursuant to Idaho Code § 41-4009(4)...No investment shall be made by or on behalf of the trust fund unless authorized in writing by the Trustee and included in the records of the trust fund. As of the examination period, the Employer does not have authorization to avail itself of the services provided by Edward Jones within the plan services agreement pertaining to investment of Trust funds.

Furthermore, Pursuant to Idaho Code § 41-4014(2) ...An employer participant of the plan shall be neither a trustee nor the administrator... The Employer's Plan Services Agreement with Edward Jones implies administrative responsibilities not allowed by the code.

RECOMMENDATION:

It is recommended that the Employer cease all administrative duties and responsibilities in compliance with Idaho Code § 41-4014(2). It is further recommended that the Trust execute one or more written service agreements with the City of Nampa that provides detailed explanation of the ministerial duties and services to be provided, who will provide the services and the fee (if any) for such services.

E. Service Agreement with City of Nampa

Our examination noted that the Plan does not have separate employees. All service, ministerial duties and responsibilities incidental to Plan operations are conducted by the City of Nampa employees. There is no written agreement in place that defines the nature and scope of work, or that describes the duties, responsibilities and compensation, if any, with the City of Nampa for handling such ministerial functions for the Plan.

Pursuant to Idaho Code § 41-4005(2)(g), the Department requires a copy of every contract between the Plan and any administrator, trustee, or service company to be submitted to the Department. Any amendments or changes made to administrative, service, or management agreements shall also be filed with the Department for review and approval not less than thirty (30) days before the effective date as required by Idaho Code §41-4004(2)(c).

RECOMMENDATION:

It is recommended that the Plan execute one or more written service agreements with the City of Nampa that provides detailed explanation of the services to be provided, who will provide the services, the fee (if any) for such services, and responsibilities of each party to the agreement. All agreements (and any subsequent amendments thereto) are to be submitted to the Department not less than 30 days before the effective date of such agreement (or amendment) in compliance with Idaho Code §§41-4005(2)(g) and 41-4004(2)(c).

F. Complaint Log

Our examination noted that the Plan does not have a complete record of all the complaints which it has received since inception.

Idaho Code §41-4021 requires all self-funded plans regulated under Title 41, Chapter 40 of Idaho Code to comply with other applicable provisions of Title 41, which includes provisions in Chapter 13 of Title 41 Idaho Code. For the purpose of these code sections cited in Idaho Code §41-4021, with respect to self-funded plans, such plans shall be deemed to be "insurers."

Pursuant to Idaho Code §41-1330 ...Every authorized insurer shall maintain a complete record of all the complaints...This record shall indicate ... the total number of complaints...the nature of each complaint, the disposition of these complaints and the time it took to process each complaint. For purposes of this section, "complaint" shall mean any written communication primarily expressing a grievance.

RECOMMENDATION:

It is recommended that the Trust maintain a complete record of all complaints it receives or are passed on to it by its claims administrator or others, indicating the total number of complaints, nature of each complaint, the disposition of these complaints and the time it took to process each complaint going forward.

G. Actuarial Opinion

The Trust has not obtained an annual actuarial opinion from its actuary; therefore no actuarial opinion has been submitted to the Department for review.

Pursuant to Idaho Code Section 41-4011(3), the Plan's annual statement shall be accompanied by the certified actuarial opinion.

RECOMMENDATION:

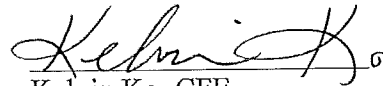
It is recommended that the Plan obtain a certified actuarial opinion from its actuary and submit such opinion along with its September 30th financial statements to the Idaho DOI.

ACKNOWLEDGEMENT

The undersigned acknowledges the assistance and cooperation of the employees of City of Nampa in conducting the examination.

In addition to the undersigned, Mike Mayberry, FSA, MAAA, Lewis & Ellis, Inc. participated in the examination.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Kelvin Ko", written over a horizontal line.

Kelvin Ko, CFE
Senior Insurance Examiner
State of Idaho
Department of Insurance

AFFIDAVIT OF EXAMINER

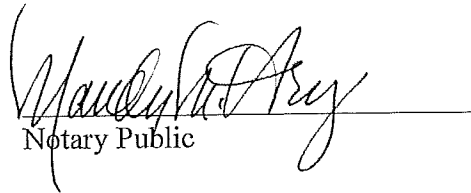
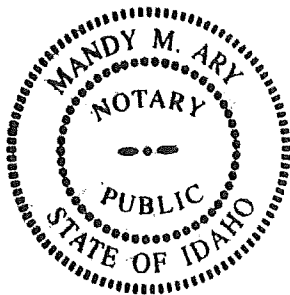
State of Idaho
County of Ada

Kelvin Ko being duly sworn, deposes and says that he is a duly appointed Examiner for the Department of Insurance of the State of Idaho, that he has made an examination of the affairs and financial condition of *City of Nampa Employee Welfare Benefit Trust* for the period from June 16, 2009 through September 30, 2014, that the information contained in the report consisting of the foregoing pages is true and correct to the best of his knowledge and belief; and that any conclusions and recommendations contained in this report are based on the facts disclosed in the information.



Kelvin Ko, CFE
Senior Insurance Examiner
Department of Insurance
State of Idaho

Subscribe and sworn to before me the 10th day of April, 2016, at Boise, Idaho


Notary Public

My Commission Expires: 7/24/2018